

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**In re:**

**THE ENGY GROUP, LLC,**

**Debtor.**

§  
§  
§  
§  
§

**Case No. 17-34848**

**(Chapter 11)**

**DEBTOR'S OBJECTION TO  
CLAIM NO. 1 OF AMERICAN EXPRESS BANK, FSB**

TO THE HONORABLE MARVIN ISGUR, U.S. BANKRUPTCY JUDGE:

NOW COMES The Engy Group, LLC (the "Debtor"), which files this *Objection to Claim No. 1 of American Express Bank, FSB* (the "Objection"), and respectfully represents as follows:

**Jurisdiction and Venue**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. Relief is available to the Trustee under 11 U.S.C. §§ 501, 502 and Bankruptcy Rule 3007.

**Background**

2. On August 8, 2017, the Debtor commenced this case (the "Chapter 11 Case") under chapter 11 of the Bankruptcy Code.

3. On August 24, 2017, the Court issued and served the Notice of Chapter 11 Bankruptcy Case, including the Proof of Claim deadline, to creditors of the Debtor.

4. On October 6, 2017, American Express Bank, FSB ("American Express") filed its proof of claim [Claim No. 1] against the Debtor.

**Relief Requested**

5. By this Objection, the Debtor seeks entry of an order disallowing and expunging the claim of American Express (the “American Express Claim”). A true and correct copy of the American Express Claim is attached hereto as **Exhibit A**. A proposed form of order approving the relief requested in this Objection is attached hereto as **Exhibit B** (the “Order”).

**Basis for Relief Requested**

6. Section 502(a) of the Bankruptcy Code governs objections to claims and provides that “(a) claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. §502(a). “If such objection to a claim is made, the court, after notice and hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount.” *Id.* §502(b).

7. Bankruptcy Rule 3007 addresses objections to claims. FED. R. BANKR. P. 3007. The burden of proof is on the objecting party to produce sufficient evidence to overcome the *prima facie* effect of the claim. *See In re O’Conner*, 153 F.3d 258, 260 (5th Cir. 1998). If the objecting party succeeds, the burden shifts to the party asserting the claim, who must then establish the validity of the claim by a preponderance of the evidence. *Id.* The ultimate burden of proof lies with the party who would bear the burden if the dispute arose outside of the bankruptcy context. *See In re Armstrong*, 320 B.R. 97 (Bankr. N.D. Tex. 2005).

8. The Debtor and its professionals have reviewed the American Express Claim. In this Objection, pursuant to § 502 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3007(d), the Debtor objects to the American Express Claim on the following grounds:

- A. The Debtor received little benefit from the charges asserted in the American Express Claim.

- B. The name on the American Express card is “Engy Group William Walker.” William Walker has not been an employee of Engy.
- C. There is no substantiation of the \$82,648.32 of the American Express charges.
- D. On the majority of the charges of Stash Bellon and William Walker, the Debtor has received no substantiation that these charges are business-related expenses.
- E. The American Express Claim seeks allowance of late payment fee of \$4,244.53, which should be disallowed or subordinated.
- F. Until American Express can establish that the claim of \$148,000 benefitted Engy, its claim should be disallowed.

**Reservation of Rights**

9. The relief requested in this Objection is without prejudice to, nor does it constitute any waiver of, any claims or causes of action or defense to any claim belonging to (or that could be asserted by) the Debtor. The Debtor reserves the right to amend, supplement, or otherwise modify the Objection and to file additional objections, both technical and substantive, to the American Express Claim.

WHEREFORE, for the reasons set forth herein, the Debtor respectfully requests entry of the Order granting the relief requested herein and such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED this 29th day of March, 2018.

DIAMOND McCARTHY LLP

By: /s/ Kyung S. Lee  
Kyung S. Lee  
Texas Bar No. 12128400  
Michael D. Fritz  
Texas Bar No. 24083029  
DIAMOND McCARTHY LLP  
909 Fannin Street, 37<sup>th</sup> Floor

Dallas, Texas 77010  
Telephone: (713) 333-5100  
Fax: (713) 333-5199  
E-mail: klee@diamondmccarthy.com  
mfritz@diamondmccarthy.com

COUNSEL FOR THE DEBTOR

**CERTIFICATE OF SERVICE**

I hereby certify that on March 29, 2018, a true and correct copy of the foregoing Objection was served by U.S. First Class Mail as well as electronically via the Bankruptcy Court's ECF System to all parties listed on the attached service list pursuant to Local Bankruptcy Rule 2002.

By: /s/ Kyung S. Lee  
Kyung S. Lee

**EXHIBIT A**

Fill in this information to identify the case:

Debtor 1 THE ENGY GROUP, LLC

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: SOUTHERN District of TEXAS  
(State)

Case number 17-34848

## Official Form 410

## Proof of Claim

04/16

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

**Part 1: Identify the Claim**

1. Who is the current creditor?		<u>American Express Bank, FSB</u> Name of the current creditor (the person or entity to be paid for this claim)	
		Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?		Where should payments to the creditor be sent? (if different)
	<u>Becket and Lee LLP</u> Name		_____ Name
	<u>PO Box 3001</u> Number Street		_____ Number Street
	<u>Malvern</u> <u>PA</u> <u>19355-0701</u> City State ZIP Code		_____ City State ZIP Code
	Contact phone <u>610-228-2570</u>		Contact phone <u>610-228-2570</u>
	Contact email <u>proofofclaim@becket-lee.com</u>		Contact email <u>payments@becket-lee.com</u>
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

6.	<b>Do you have any number you use to identify the debtor?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes.	Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>  1  </u> <u>  0  </u> <u>  0  </u> <u>  9  </u>
7.	<b>How much is the claim?</b>	\$143,575.01	<b>Does this amount include interest or other charges?</b> <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8.	<b>What is the basis of the claim?</b>	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.  Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).  Limit disclosing information that is entitled to privacy, such as healthcare information.  <u>CREDIT CARD</u>	
9.	<b>Is all or part of the claim secured?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. The claim is secured by a lien on property.  <b>Nature of property:</b> <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a Mortgage <i>Proof of Claim Attachment</i> (Official Form 410-A) with this Proof of Claim.  <input type="checkbox"/> Motor vehicle _____  <input type="checkbox"/> Other. Describe: _____  <b>Basis for perfection:</b> _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  <b>Value of property:</b> \$ _____  <b>Amount of the claim that is secured:</b> \$ _____  <b>Amount of the claim that is unsecured:</b> \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ _____  <b>Annual Interest Rate</b> (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable	
10.	<b>Is this claim based on a lease?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. <b>Amount necessary to cure any default as of the date of the petition.</b> \$ _____	
11.	<b>Is this claim subject to a right of setoff?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____	



## 12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☒ No☐ Yes. Check one:

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$2,850\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$12,850\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$

\$

\$

\$

\$

\$

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 10/6/2017  
MM / DD / YYYY

/s/ Shraddha Bharatia

Signature

**Print the name of the person who is completing and signing this claim:**

Name Shraddha Bharatia  
First Name Middle Name Last Name

Title Claims Administrator

Company Becket and Lee LLP  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address POB 3001  
Number Street

Malvern PA 19355-0701  
City State ZIP Code

Contact phone 610-228-2570 Email proofofclaim@becket-lee.com

**Business Platinum Card®**

ENGY GROUP LLC

WILLIAM WALKER

Closing Date 08/24/17 Next Closing Date 09/22/17

**OPEN**<sup>SM</sup>

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Account Ending 009

**New Balance****\$147,958.72****Pay Past Due Amount Immediately†**

† Pay past due amount of \$141,957.76 immediately. Payment is due upon receipt; we suggest you pay the remaining balance by 09/08/17. You may be charged a late fee of the greater of \$38.00 or 2.99% of the past due Pay in Full amount if your payment is not received by the Next Closing Date.

See page 2 for important information about your account.

Your account is past due.

**See page 6 for a Notice Of Change To The Membership Rewards Program Terms & Conditions.**

Effective immediately, we are making changes to the Membership Rewards Program Terms & Conditions that impact Card Members who are enrolled in the Membership Rewards Program and are eligible for points transfer. Membership Rewards points can now be transferred at a 1:1 ratio into British Airways Executive Club and Iberia Plus programme and can be transferred in increments of 1,000 points.

**MEMBERSHIP  
rewards®**

Because your payment was received late, you may have forfeited Membership Rewards® points. Please visit our website at [www.membershiprewards.com/terms](http://www.membershiprewards.com/terms) or call **1-800-AXP-EARN** (297-3276) for more information or to reinstate points. There is a \$35.00 fee for each month of points you want to reinstate.

**Visit**[www.membershiprewards.com](http://www.membershiprewards.com)**Account Summary**

Previous Balance	\$142,180.69
Payments/Credits	-\$222.93
New Charges	+\$1,756.43
Fees	+\$4,244.53

<b>New Balance</b>	<b>\$147,958.72</b>
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Days in Billing Period: 31

**Customer Care**

**Pay by Computer**  
[open.com/pbc](http://open.com/pbc)

<b>Customer Care</b>	<b>Pay by Phone</b>
1-800-492-8468	1-800-472-9297

See page 2 for additional information.

↓ Please fold on the perforation below, detach and return with your payment ↓

**Payment Coupon**

Do not staple or use paper clips

**Pay by Computer**[open.com/pbc](http://open.com/pbc)**Pay by Phone**

1-800-472-9297

**Account Ending 1009**

Enter 15 digit account # on all payments.  
Make check payable to American Express.

WILLIAM WALKER  
ENGY GROUP LLC  
ENGY GROUP LLC  
2425 MOWERY RD  
HOUSTON TX 77045

Amount Due  
**\$147,958.72**



Check here if your address or  
phone number has changed.  
Note changes on reverse side.



AMERICAN EXPRESS  
P.O. BOX 650448  
DALLAS TX 75265-0448



**Business Platinum Card®**  
 ENGY GROUP LLC  
 WILLIAM WALKER  
 Closing Date 08/24/17

**OPEN**<sub>SV</sub>

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Account Ending 1009

## Payments and Credits

### Summary

	Total
<b>Payments</b>	<b>\$0.00</b>
<b>Credits</b>	<b>\$0.00</b>
	<b>-\$182.93</b>
	<b>-\$40.00</b>
<b>Total Payments and Credits</b>	<b>-\$222.93</b>

### Detail

\*Indicates posting date

Payments	Amount
08/17/17* WILLIAM WALKER CUSTOMER SERVICE PAYMENT THANK YOU	-\$82,648.32
08/17/17* WILLIAM WALKER RETURNED CHECK/DECLINED BANK TRANSACTIONS	\$82,648.32
Credits	Amount
08/20/17 PHIL LOPEZ THE HOME DEPOT PEARLAND TX 800-654-0688	-\$182.93
07/25/17 PAUL MCKELVY UNITED AIRLINES HOUSTON TX UNITED AIRLINES From: HOUSTON INTERCONTI To: NEW ORLEANS INTERN HOUSTON INTERCONTI N/A N/A Ticket Number: 01623579681861 Passenger Name: MCKELVY/PAUL Document Type: SUPPORTED REFUND	-\$40.00
	Carrier: UA Class: 00 UA 00 YY 00 YY 00 Date of Departure: 07/31

## New Charges

### Summary

	Total
	<b>\$36.07</b>
	<b>\$664.77</b>
	<b>\$400.41</b>
	<b>\$453.31</b>
	<b>\$201.87</b>
<b>Total New Charges</b>	<b>\$1,756.43</b>

### Detail



WILLIAM WALKER

	Foreign Spend	Amount
07/26/17 OPORTO CAFE 650000009770648 HOUSTON TX		\$24.00
7135459668 TIP \$4.16		
07/27/17 AIRCANADA ONBOARD CAFI AIRCANADA ONBOA MISSISSAUGA	15.00 Canadian Dollars	\$12.07
DUTY-FREE STORE		




Continued on reverse

WILLIAM WALKER

Account Ending 1009

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## Detail Continued

				Foreign Spend	Amount
	<b>MARY FORREST</b>				
				Foreign Spend	Amount
07/26/17	KROGER 8666111979 GROCERY STORES	PEARLAND	TX		\$50.90
08/17/17	ADOBE *ACROPRO SUBS Adobe Systems 800-833-6687	SAN JOSE	CA		\$16.23
08/21/17	eFAX.COM SERVICES INTERNET SVC	800-958-2983	CA		\$16.95
08/24/17	ENTERPRISE RENTACAR KATY 1011957 Location Rental: KATY TX Return: KATY TX Agreement Number: D319345 Renter Name: WELSCH GAR	KATY	TX		\$580.69
	<b>STASH BELLON</b>				
				Foreign Spend	Amount
07/24/17	PICOS RESTAURANT USFC77098	HOUSTON	TX		\$100.11
07/24/17	PRET A MANGER 646-728-0505 Description FAST FOOD RESTAURAN	NEW YORK	NY		\$9.35
07/24/17	IAH-HOU PARKING VALE PARKING LOT & GARAGE	HOUSTON	TX		\$130.00
07/24/17	QUEENS MEDALLION LEA QUEENS MEDALLIO 718-784-9292 Description TAXI SVC LONG ISL 09:26 395 W 50th S 09:45 830 3rd Ave	LONG ISLAND CITY	NY		\$15.96
07/24/17	WHITE AND BLUE GROUP WHITE AND BLUE TAXICAB & LIMOUSINE Description TAXI SVC LIC 12:30 59 E 12th St 12:38 54 Thompson	LIC	NY		\$9.36
07/24/17	PI BAKERIE 641110042406298 ONLYREGINA@HOTMAIL.COM	NEW YORK	NY		\$18.15
07/28/17	ORKIN LLC 002 000000001 8669536427	HOUSTON	TX		\$90.93
08/18/17	EXPERIAN *CREDITREPORT 866-751-1326	866-751-1326	CA		\$26.55
	<b>PHIL LOPEZ</b>				
				Foreign Spend	Amount
07/24/17	HEB GAS/CARWASH #054 000000000876832 9999999999	HOUSTON	TX		\$42.00
07/24/17	THE HOME DEPOT 800-654-0688	PEARLAND	TX		\$38.92
07/25/17	PARKERS INDUSTRIAL AND HA 000000001 7134331021 Description HARDWARE EQUIP	HOUSTON	TX		\$29.65
				Price	\$29.65

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**Business Platinum Card®**  
 ENGY GROUP LLC  
 WILLIAM WALKER  
 Closing Date 08/24/17

**OPEN**<sub>SM</sub>

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Account Ending 1009

### Detail Continued

				Foreign Spend	Amount
07/26/17	PARKERS INDUSTRIAL AND HA 000000001 7134331021 Description HARDWARE EQUIP	Price \$239.52	HOUSTON TX		\$239.52
07/26/17	WW GRAINGER 355 123 877-202-2594		HOUSTON TX		\$103.22



**PAUL MCKELVY**

				Foreign Spend	Amount
07/24/17	UNITED AIRLINES UNITED AIRLINES From: HOUSTON INTERCONTI	To: NEW ORLEANS INTERN HOUSTON INTERCONTI N/A N/A	Carrier: UA UA YY YY Class: 00 00 00 00 Date of Departure: 07/31		\$178.40
	Ticket Number: 01623579681861 Passenger Name: MCKELVY/PAUL Document Type: PASSENGER TICKET				
07/26/17	KRISPY DONUTS squareup.com/receipts	Spring	TX		\$23.47

### Fees

			Amount
08/24/17	WILLIAM WALKER	60 Day Late Payment Fee	\$4,244.53
<b>Total Fees for this Period</b>			<b>\$4,244.53</b>

### 2017 Fees and Interest Totals Year-to-Date

	Amount
Total Fees in 2017	\$4,732.53
Total Interest in 2017	\$0.00

**Business Platinum Card®**

ENGY GROUP LLC

WILLIAM WALKER

Closing Date 09/22/17 Next Closing Date 10/24/17

**OPEN**<sub>SM</sub>

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Account Ending 1009

**New Balance****\$147,983.67****Pay Past Due Amount Immediately†**

† Pay past due amount of \$65,493.33 immediately. Payment is due upon receipt; we suggest you pay the remaining balance by 10/08/17. You may be charged a late fee of the greater of \$38.00 or 2.99% of the past due Pay in Full amount if your payment is not received by the Next Closing Date.

➔ See page 2 for important information about your account.

ⓘ Your account is cancelled.

➔ Your account is currently enrolled in one or more optional travel insurance product(s). For refund requests, please see **Page 7** for your Travel Insurance Premium Refund/Credit form.

**Hurricane Harvey Assistance**

For Card Members in FEMA-impacted areas, we are automatically waiving or refunding any late fees and return check fees from 8/26/17 – 10/1/17. Refunds may not be immediately reflected on your current statement.

Learn more at [americanexpress.com/harvey](http://americanexpress.com/harvey). You can also call the number on the back of your card or 1-800-528-4800.

**Membership Rewards® Points**

Available and Pending as of 08/31/17

**1,223,391**

For up to date point balance and full program details, visit [membershiprewards.com](http://membershiprewards.com)

**Account Summary**

Previous Balance	\$147,958.72
Payments/Credits	-\$0.00
New Charges	+\$24.95
Fees	+\$0.00

**New Balance** **\$147,983.67**

Days in Billing Period: 29

**Customer Care**

**Pay by Computer**  
[open.com/ptbc](http://open.com/ptbc)

**Customer Care** **Pay by Phone**  
1-800-492-8468 1-800-472-9297

➔ See page 2 for additional information.

↓ Please fold on the perforation below, detach and return with your payment ↓

**Payment Coupon**

Do not staple or use paper clips

**Pay by Computer**

[open.com/ptbc](http://open.com/ptbc)

**Pay by Phone**

1-800-472-9297

**Account Ending** **1009**

Enter 15 digit account # on all payments.  
Make check payable to American Express.

WILLIAM WALKER  
ENGY GROUP LLC  
ENGY GROUP LLC  
2425 MOWERY RD  
HOUSTON TX 77045

Amount Due  
**\$147,983.67**



Check here if your address or  
phone number has changed.  
Note changes on reverse side.

AMERICAN EXPRESS  
P.O. BOX 650448  
DALLAS TX 75265-0448





**Business Platinum Card®**  
 ENGY GROUP LLC  
 WILLIAM WALKER  
 Closing Date 09/22/17

**OPEN**<sub>SM</sub>

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Account Ending 1009

## New Charges

### Summary

	Total
	\$24.95
<b>Total New Charges</b>	<b>\$24.95</b>

### Detail

\*Indicates posting date



MARY FORREST

	Amount
08/25/17* TRANSACTION PROCESSED BY AMERICAN EXPRESS PREM CAR RENTAL PROTECTION 800-326-2078 CRAD319345 05/18/2017 KATY	\$24.95

## Fees

	Amount
<b>Total Fees for this Period</b>	<b>\$0.00</b>

## 2017 Fees and Interest Totals Year-to-Date

	Amount
Total Fees in 2017	\$4,732.53
Total Interest in 2017	\$0.00

**EXHIBIT B**

**Proposed Order**



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**In re:**

**THE ENGY GROUP, LLC,**

**Debtor.**

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§  
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**Case No. 17-34848**

**(Chapter 11)**

**ORDER REGARDING DEBTOR'S OBJECTION TO  
AMERICAN EXPRESS CLAIM NO. 1**

Upon Engy Group, LLC's ("Engy" or "Debtor") *Objection to American Express Claim No. 1* (the "Objection") filed by Engy in the above-captioned chapter 11 cases, and having considered the Objection; and the Court being satisfied that good and sufficient notice of the Objection was given and that no other notice is required; and after due deliberation, finding that good and sufficient cause exists to grant the relief requested in the Objection; it is hereby ORDERED that:

1. The Objection is granted as provided herein.
2. The claims shown on Exhibit A to this Order are hereby disallowed and expunged from the official claims register.
3. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated this \_\_\_ day of April, 2018.

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United States Bankruptcy Court

Submitted by:

Kyung S. Lee  
Texas Bar No. 12128400  
Michael D. Fritz  
Texas Bar No. 24083029  
DIAMOND McCARTHY LLP

909 Fannin Street, 37<sup>th</sup> Floor  
Dallas, Texas 77010  
Telephone: (713) 333-5100  
Fax: (713) 333-5199  
E-mail: klee@diamondmccarthy.com  
mfritz@diamondmccarthy.com

COUNSEL FOR ENGY GROUP, LLC,  
DEBTOR AND DEBTOR-IN-POSSESSION

**EXHIBIT C**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>In re:</b>  <b>THE ENGY GROUP, LLC,</b>  <b>Debtor.</b>	§ § § § §	<b>Case No. 17-34848</b>  <b>(Chapter 11)</b>
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**DECLARATION OF BRIAN HART  
IN SUPPORT OF OBJECTION TO CLAIM NO. 1  
OF AMERICAN EXPRESS**

I, Brian Hart, hereby declare under penalty of perjury:

1. I am the Chief Financial Officer (CFO) of Southwest Container Products. I have personal knowledge of the facts set out in the Objection to Claim No. 1 of American Express Bank FSB ("American Express"). In my capacity as the CFO of Southwest Container Products, I am familiar with the books and records of The Engy Group LLC ("Engy" or the "Debtor") and also the claims asserted against Engy by American Express. I hereby make this declaration this "Declaration") on behalf of Engy.

2. I submit this Declaration in support of the Objection to Claim No. 1 of American Express (the "Objection")<sup>1</sup> and am directly, or by and through the advisors and personnel of the Debtor, familiar with the information contained therein and the exhibits and schedules attached thereto. I am authorized to submit this Declaration on the Debtor.

3. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge of the Debtor's operations and finances, information learned from my review of relevant documents, and information I have received from members of the Debtor's management or advisors for the Debtor. As to matters regarding state and federal law, including

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<sup>1</sup> Capitalized terms used but not otherwise defined in this Declaration have the meanings given to them in the Objection.

bankruptcy law, I have relied on the advice of counsel. If I were called upon to testify, I could and would testify competently to the facts set forth in this Declaration on that basis.

4. To the best of my knowledge, information, and belief, insofar as I have been able to ascertain after reasonable inquiry, considerable time and resources have been expended to ensure a high level of diligence in reviewing and reconciling the proofs of claim filed against the Debtor in this Chapter 11 Case.

5. In evaluating the American Express Claim, the Debtor has thoroughly reviewed the Debtor's books and records and the American Express Claim as well as the supporting documentation, if any, and has determined that the claim should be expunged and disallowed or reclassified as set forth in the Objection. As such, I believe that the documentation provided in connection with the American Express Claim does not provide prima facie evidence of the validity, priority and/or amount of such claim and that the expungement and disallowance or reclassification of the disputed claim on the terms set forth in the Objection is appropriate.

6. To the best of my knowledge, information, and belief, the Debtor has determined that, based on the review of the American Express Claim, such claim, as filed, does not accurately reflect amounts owed by the Debtor according to its books and records. The Debtor continues to wait for documentation by claimant establishing the bond fide basis of the American Express Claim.

7. In addition, it is not at all clear whether the charges incurred and paid for by American Express in fact represent a legitimate claim. With respect to the charges shown and attached to the American Express Claim, they show limited amounts being owed by Engy.

8. I also have personal knowledge regarding the other bases for objection to the allowance of Claim No. 1. To the best of my knowledge, information, and belief, the Debtor has determined that the American Express Claim fails to provide sufficient supporting documentation to

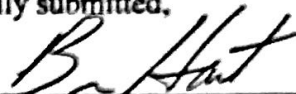
support the bases for the claim.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: March 29, 2018

Respectfully submitted,

/s/

A handwritten signature in cursive script, appearing to read "B. Hunt", written over a horizontal line.